

Message Text

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ACTION EUR-12

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SUBJECT: OECD GOVERNMENT PROCUREMENT CODE AND THE EC

REF: A) STATE 168247

B) USOECD PARIS 18417

C) EC BRUSSELS 6139

D) STATE 151341

1. SUMMARY. THE EC COMMISSION HAS SENT A PROPOSED AGENDA FOR THE OECD GOVERNMENT PROCUREMENT WORKING PARTY MEETING ON SEPTEMBER 15 TO THE OECD SECRETARIAT. IT IS SIMILAR TO THAT IN REFTEL C. EC COMMISSION OFFICIALS NOW FEEL THAT DESPITE LACK OF PROCUREMENT, ISSUES CAN BE SHARPENED AND PROGRESS MADE AT SEPT. 15. MEETING END SUMMARY.

2. ON JULY 18 A MISSION OFFICER WITH DERISBOURG, THE EC COMMISSION OFFICIAL WHO REPRESENTS THE EC IN THE OECD TCWP ON GOVERNMENT PROCUREMENT, AND CONVEYED THE SUBSTANCE OF REFTEL A. DERISBOURG THEN GAVE US A COPY, IN FRENCH, OF THE AGENDA ITEMS THE EC HAS SUBMITTED TO THE OECD SECRETARIAT FOR THE SEPTEMBER 15 GOVERNMENT PROCUREMENT MEETING.

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3. DERISBOURG WAS MUCH MORE OPTIMISTIC REGARDING POSSIBILITIES FOR PROGRESS AT THE SEPTEMBER 15 MEETING THAN HE HAD BEEN WHEN WE LAST SPOKE TO HIM(SEE REFTEL C). HE THOUGHT THE AGENDA ITEMS THE COMMISSION, WITH MEMBER STATE AGREEMENT, WAS PROPOSING COULD MOVE THE WORKING GROUP FORWARD ON BASIC ISSUES. THE PROPOSED AGENDA ITEMS ARE THE SAME AS THOSE LISTED IN REFTEL C, PARA 5, BUT DERISBOURG'S COMMENTS, DESCRIBED BELOW, MAY BE USEFUL IN USG PREPARATION FOR THE MEETING.

4. THE FIRST AGENDA ITEM IS THE SCOPE AND APPLICATION OF THE INSTRUMENT. DERISBOURG SAID THE COMMUNITY, BECAUSE OF ITS INABILITY TO REACH AGREEMENT ON SCOPE IN ITS OWN DRAFT DIRECTIVE, CANNOT DISCUSS A LIST OF PURCHASING ENTITIES WHICH WILL BE SUBJECT TO THE INSTRUMENT. HOWEVER, HE FEELS THAT IT IS IMPORTANT TO DISCUSS THE METHODS FOR PREPARING THE LISTS OF PURCHASING ENTITIES AND THE WAYS TO MODIFY OR ENLARGE THE LISTS OF PURCHASING ENTITIES AT A LATER DATE. IN OTHER WORDS, A) WHO WILL BE COMPETENT TO ESTABLISH AND MODIFY THE ORIGINAL LISTS OF PURCHASING ENTITIES AND B) WHAT PROCEDURES WILL BE USED TO ADD TO THE LISTS IF A MODEST AGREEMENT-IN TERMS OF SECTOR COVERAGE--IS EXPANDED AT A LATER DATE. (SEE REF B).

5. DERISBOURG WANTS TO GET THE DEROGATIONS COUNTRIES ARE SEEKING "ON THE TABLE". HE HOPES THAT COUNTRIES WHICH ATTACH GREAT IMPORTANCE TO OBTAINING DEROGATIONS WILL MAKE THIS CLEAR. HE WOULD LIKE TO LIMIT THE SCOPE OF DEROGATIONS SUCH AS PREFERENCES FOR SMALL AND MEDIUM-SIZED BUSINESSES, PREFERENCES OF A REGIONAL NATURE, ETC. HE WOULD ALSO LIKE TO HAVE THE THRESHOLD ISSUE DISCUSSED IN THIS CONTEXT BECAUSE IF THE THRESHOLD IS HIGH, THEN DEROGATIONS FOR SMALL AND MEDIUM-SIZED BUSINESS WOULD NOT APPEAR NECESSARY.

6. OTHER DEROGATIONS DERISBOURG WOULD LIKE TO LOOK INTO ARE THOSE FOR A) BALANCE OF PAYMENTS REASONS AND B) INFANT INDUSTRIES OF SIGNATORY DEVELOPING COUNTRIES. HE WOULD LIMIT SUCH INFANT INDUSTRY DEROGATIONS TO CERTAIN AGREED UPON SECTORS. SINCE SOME OF THESE DEROGATIONS WOULD BE LIMITED IN TIME, HE BELIEVES THE CONTROL THAT WOULD BE EXERCISED BY THE SURVEILLANCE COMMITTEE SHOULD ALSO BE DISCUSSED.

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7. THE SECOND ITEM ON THE PROPOSED AGENDA IS ADHESION AND WITHDRAWAL FROM THE CODE. DISCUSSION WOULD COVER A) CLAUSES TO BE PUT INTO THE INSTRUMENT TO ASSURE ITS OPEN CHARACTER, B) THE APPLICATION OF THE AGREEMENT AFTER RATIFICATION OF THE INSTRUMENT BY A MINIMUM NUMBER OF SIGNATORIES, AND C) THE OBLIGATORY PARTICIPATION OF KEY COUNTRIES AND THE CONSEQUENCES IF THEY WERE TO WITHDRAW.

8. THE THIRD AGENDA ITEM COVERS FUTURE STATISTICS. DERISBOURG WOULD LIKE TO SEE AGREEMENT REACHED ON THE OBJECTIVES (PARA 38 OF THE DRAFT CODE) AND DEVELOPMENT OF THE SYSTEM PROVIDED FOR IN ANNEX III. DERISBOURG BELIEVES THAT A SUB-GROUP OF STATISTICAL EXPERTS SHOULD BE CREATED WORK ON A STATISTICS SYSTEM.

9. THE EC'S FOURTH ITEM COVERS THE COMPOSITION AND POWERS OF THE SURVEILLANCE COMMITTEE AND SETTLEMENT OF DISPUTES. THIS SUBJECT IS ALSO ON THE PROPOSED US AGENDA (SEE REFTEL B). WE ASKED DERISBOURG IF HE THOUGHT THERE COULD BE PROGRESS ON THIS CONTROVERSIAL ISSUE, AND HE SAID THE EC HAS NOT MODIFIED ITS POSITION.

10. THE FINAL PROPOSED EC AGENDA ITEM IS A DISCUSSION OF THE GOVERNMENT PROCUREMENT SITUATION IN THE GATT. DERISBOURG, AFTER HAVING BEEN AT THE TRADE NEGOTIATING COMMITTEE MEETING IN GENEVA, NOTED THAT THERE WERE NO APPEALS TO MOVE THE GOVERNMENT PROCUREMENT CODE FROM THE OECD TO THE GATT. DERISBOURG NOW BELIEVES THIS ITEM CAN BE DROPPED. GREENWALD

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